TITLE 8—ALIENS AND NATIONALITY

CHAPTER 12—IMMIGRATION AND NATIONALITY

Chapter Referred to in Other Sections

This chapter is referred to in title 7 section 3508; title 10 sections 510, 591, 3253, 8253; title 22 section 2454; title 42 section 6705; title 50 sections 47c, 47f.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1101. Definitions

(a) As used in this chapter—

(1) The term "administrator" means the Assistant Secretary of State for Consular Affairs.

[*See main edition for text of (2) to (40)*]

(41) The term "graduates of a medical school" means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine.

[*See main edition for text of (b) to (g)*]

(As amended Oct. 12, 1976, Pub. L. 94-484, title VI, § 602(c), as added Aug. 1, 1977, Pub. L. 95-83, title III, § 307(q)(3), 91 Stat. 395; Aug. 17, 1977, Pub. L. 95-105, title I, § 109(b)(3), 91 Stat. 847.)

References in Text

This chapter, referred to in subsec. (a), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Sections 1482 and 1484 of this title, referred to in subsec. (a)(33), were repealed by Pub. L. 95-432, §§ 1, 2, Oct. 10, 1978, 92 Stat. 1046.

Section 1434 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 95-417, § 7, Oct. 5, 1978, 92 Stat. 918.

Amendments

1977—Subsec. (a)(1). Pub. L. 95-105 substituted "Assistant Secretary of State for Consular Affairs" for "administrator of the Bureau of Security and Consular Affairs of the Department of State".

Subsec. (a)(41). Pub. L. 95-83 inserted "a" after "graduates of" and ", other than such aliens who are of national or international renown in the field of medicine" after "in a foreign state".

Effective Date of 1977 Amendment

Section 602(d) of Pub. L. 94-484, as added Pub. L. 95-83, title III, § 307(q)(3), Aug. 1, 1977, 91 Stat. 395, provided that: "This section [amending this section and enacting provisions set out as a note under section 1182 of this title] and the amendment made by subsection (c) [amending this section] are effective January 10, 1977, and the amendments made by subsections (b)(4) and (d) of section 601 [amending subsec. (a)(15)(J) of this section and section 1182 of this title] shall apply only on and after January 10, 1978, notwithstanding subsection (f) of such section [set out as an Effective Date of 1976 Amendments note under section 1182 of this title]."

Effective Date of 1976 Amendments

Amendment of subsec. (a)(15)(J) of this section by section 601(b)(4) of Pub. L. 94-484 to be applicable only on and after Jan. 10, 1978, notwithstanding section 601(f) of Pub. L. 94-484, see section 602(d) of Pub. L. 94-484, as added by section 307(q)(3) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note above.

Short Title

Section 1 of act June 27, 1952 provided that such act, which enacted this chapter, section 1429 of Title 18, Crimes and Criminal Procedure, amended sections 1353a, 1353d, 1552 of this title, sections 342b, 342c, 342e of former Title 5, Executive Departments and Government Officers and Employees, sections 1114, 1546 of Title 18, sections 618, 1446 of Title 22, Foreign Relations and Intercourse, sections 1, 177 of Title 49, Transportation, sections 1952 to 1955 and 1961 of Title 50 App., War and National Defense, repealed section 530 of Title 31, Money and Finance, enacted provisions set out as notes under section 1101 of this title, and amended provisions set out as notes under sections 1435 and 1440 of this title, may be cited as the "Immigration and Nationality Act".

Transfer of Functions

All functions vested in the Secretary of State under subsec. (a)(15)(J) of this section were transferred to the Director of the Agency for International Communication by Reorg. Plan No. 2 of 1977, § 7(a)(8), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

Section Referred to in Other Sections

This section is referred to in sections 1102, 1151, 1151a, 1152, 1153, 1154, 1181, 1182, 1184, 1184a, 1201, 1251, 1254, 1255b, 1257, 1258, 1282, 1303, 1481 of this title; title 2 section 441e; title 7 section 2015; title 18 section 613; title 22 sections 1474, 2395, 2508; title 26 sections 871, 872, 1441, 3121, 3231, 3306; title 42 section 410; title 45 sections 231, 351; title 50 section 1801; title 50 App. sections 453, 456.

§ 1104. Secretary of State

(a) Powers and duties

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except

those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties, and functions of the Bureau of Consular Affairs; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) Creation of Bureau of Consular Affairs; duties of Assistant Secretary of State for Consular Affairs

There is established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

[*See main edition for text of* (c)]

(d) Transfer of duties

The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of Consular Affairs.

[*See main edition for text of* (e)]

(f) Repealed. Pub. L. 95–105, title I, § 109(b)(1)(D), Aug. 17, 1977, 91 Stat. 847

(As amended Aug. 17, 1977, Pub. L. 95–105, title I, § 109(b)(1), 91 Stat. 847.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95–105, § 109(b)(1)(A), struck out "Security and" following "Bureau of".

Subsec. (b). Pub. L. 95–105, § 109(b)(1)(B), substituted "Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs" for "Security and Consular Affairs, to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank equal to that of an Assistant Secretary of State" and "Assistant Secretary of State for Consular Affairs" for "administrator" and struck out provision that the administrator shall be appointed by the President by and with the advice and consent of the Senate.

Subsec. (d). Pub. L. 95–105, § 109(b)(1)(C), struck out "Security and" following "Bureau of".

Subsec. (f). Pub. L. 95–105, § 109(b)(1)(D), struck out subsec. (f), which placed the Bureau of Security and Consular Affairs under the immediate jurisdiction of the Deputy Under Secretary of State for Administration.

ASSUMPTION OF DUTIES BY ADMINISTRATOR OF BUREAU OF SECURITY AND CONSULAR AFFAIRS

Section 109(b)(4) of Pub. L. 95–105 provided that: "The individual holding the position of administrator of the Bureau of Security and Consular Affairs on the date of enactment of this section [Aug. 17, 1977] shall assume the duties of the Assistant Secretary of State for Consular Affairs and shall not be required to be reappointed by reason of the enactment of this section."

REFERENCES TO BUREAU OF SECURITY AND CONSULAR AFFAIRS OR ADMINISTRATOR

Section 109(b)(5) of Pub. L. 95–105 provided that: "Any reference in any law to the Bureau of Security and Consular Affairs or to the administrator of such Bureau shall be deemed to be a reference to the Bureau of Consular Affairs or to the Assistant Secretary of State for Consular Affairs, respectively."

§ 1105. Liaison with internal security officers

The Commissioner and the Assistant Secretary of State for Consular Affairs shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this chapter in the interest of the internal security of the United States. The Commissioner and the Assistant Secretary of State for Consular Affairs shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this chapter, and all other immigration and nationality laws.

(As amended Aug. 17, 1977, Pub. L. 95–105, title I, § 109(b)(2), 91 Stat. 847.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95–105 substituted "Assistant Secretary of State for Consular Affairs" for "administrator" in two places.

SUBCHAPTER II—IMMIGRATION

PART I—SELECTION SYSTEM

§ 1151. Numerical limitations on total lawful admissions

(a) Exclusive of special immigrants defined in section 1101(a)(27) of this title, and immediate relatives of United States citizens as specified in subsection (b) of this section, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 1153(a)(7) of this title, enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-seven thousand and shall not in any fiscal year exceed a total of two hundred and ninety thousand.

[See main edition for text of (b)]

(As amended Oct. 5, 1978, Pub. L. 95-412, § 1, 92 Stat. 907.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-412 substituted provisions establishing a single worldwide annual immigration ceiling of 290,000 aliens and limiting to 77,000 the number of aliens subject to such ceiling which may be admitted in each of the first three quarters of any fiscal year for provisions establishing separate annual immigration ceilings of 170,000 aliens for the Eastern Hemisphere and 120,000 aliens for the Western Hemisphere and limiting to 45,000 the number of aliens subject to the Eastern Hemisphere ceiling and to 32,000 the number of aliens subject to the Western Hemisphere ceiling which may be admitted in the first three quarters of any fiscal year.

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Section 4 of Pub. L. 95-412 provided that:

"(a) There is established a Select Commission on Immigration and Refugee Policy (hereinafter in this section referred to as the 'Commission') which shall be composed of—

"(1) four members appointed by the President, one of whom shall be designated by the President as Chairman;

"(2) the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Health, Education, and Welfare;

"(3) four members appointed by the Speaker of the House of Representatives from the membership of the House Committee on the Judiciary; and

"(4) four members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

"(b)(1) A majority of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than four members of the Commission.

"(2) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $100 for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code. Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

"(c) It shall be the duty of the Commission to study and evaluate, in accordance with subsection (d), existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make such administrative and legislative recommendations to the President and to the Congress as are appropriate.

"(d) In particular, the Commission shall—

"(1) conduct a study and analysis of the effect of the provisions of the Immigration and Nationality Act [this chapter] (and administrative interpretations thereof) on (A) social, economic, and political conditions in the United States; (B) demographic trends; (C) present and projected unemployment in the United States; and (D) the conduct of foreign policy;

"(2) conduct a study and analysis of whether and to what extent the Immigration and Nationality Act [this chapter] should apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the other territories and possessions of the United States;

"(3) review, and make recommendations with respect to the numerical limitations (and exemptions therefrom) of the Immigration and Nationality Act [this chapter] on the admission of permanent resident aliens;

"(4) assess the social, economic, political, and demographic impact of previous refugee programs and review the criteria for, and numerical limitations on, the admission of refugees to the United States;

"(5) conduct a comprehensive review of the provisions of the Immigration and Nationality Act [this chapter] and make legislative recommendations to simplify and clarify such provisions;

"(6) make semiannual reports to each House of Congress during the period before publication of its final report (described in paragraph (7)); and

"(7) make a final report of its findings and recommendations to the President and each House of Congress, which report shall be published not later than September 30, 1980.

"(e)(1) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

"(2) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

"(f) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

"(g) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this section.

"(h) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to sixty days thereafter for the purpose of winding up its affairs.

"(i) There is authorized to be appropriated the sum of $700,000 to carry out the provisions of this section.

"(j) Notwithstanding any other provision of this Act [amending sections 1151, 1152, and 1153 of this title and enacting provisions set out notes under this section and section 1182 of this title], no payment, or authorization to make payments or to enter into contracts under this Act, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts."

§ 1152. Numerical limitations on individual foreign states

[*See main edition for text of* (a) *and* (b)]

(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 1101(a)(27) of this title, or an immediate relative of a United States citizen, as defined in section 1151(b) of this title, shall be chargeable for the purpose of the limitation set forth in subsection (a) of this section, to the foreign state, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed six hundred in any one fiscal year.

[*See main edition for text of* (d) *and* (e)]

(As amended Oct. 5, 1978, Pub. L. 95-412, § 2, 92 Stat. 907.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-412 substituted "limitation set forth in subsection (a) of this section, to the foreign state," for "limitations set forth in section 1151(a) and subsection (a) of this section, to the hemisphere in which such colony or other component or dependent area is located, and to the foreign state, respectively," and "six hundred" for "600".

§ 1153. Allocation of immigrant visas

(a) Categories of preference priorities; per centum limitations; conditional entries; waiting lists

Aliens who are subject to the numerical limitations specified in section 1151(a) of this title shall be allotted visas or their conditional entry authorized, as the case may be, as follows:

(1) Visas shall be first made available, in a number not to exceed 20 per centum of the number specified in section 1151(a) of this title, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 20 per centum of the number specified in section 1151(a) of this title, plus any visas not required for the classes specified in paragraph (1) of this subsection, to qualified immigrants who are the spouses, unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 1151(a) of this title, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 1151(a) of this title, plus any visas not required for the classes specified in paragraphs (1) through (3) of this subsection, to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in section 1151(a) of this title, plus any visas not required for the classes specified in paragraphs (1) through (4) of this subsection, to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 1151(a) of this title, to qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe and in a number not to exceed 6 per centum of the number specified in section 1151(a) of this title, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term "general area of the Middle East" means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

(8) Visas authorized in any fiscal year, less those required for issuance to the classes specified in paragraphs (1) through (6) and less the number of conditional entries and visas made available pursuant to paragraph (7), shall be made available to other qualified immigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be

maintained in accordance with regulations prescribed by the Secretary of State. No immigrant visa shall be issued to a nonpreference immigrant under this paragraph, or to an immigrant with a preference under paragraph (3) or (6) of this subsection, until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 1182(a)(14) of this title. No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

[*See main edition for text of (9); (b) to (h)*]

(As amended Oct. 5, 1978, Pub. L. 95–412, § 3, 92 Stat. 907; Oct. 5, 1978, Pub. L. 95–417, § 1, 92 Stat. 917.)

AMENDMENTS

1978—Subsec. (a)(1) to (7). Pub. L. 95–412 substituted "1151(a) of this title" for "1151(a)(1) or (2) of this title" wherever appearing.

Subsec. (a)(8). Pub. L. 95–417 added provisions requiring a valid adoption home-study prior to the granting of a nonpreference visa for children adopted abroad or coming for adoption by United States citizens and requiring that no other nonpreference visa be issued to an unmarried child under the age of 16 unless accompanying or following to join his natural parents.

RETROACTIVE ADJUSTMENT OF REFUGEE STATUS

For adjustment of the status of refugees paroled into the United States pursuant to section 1182(d)(5) of title, see section 5 of Pub. L. 95–412, set out as a note under section 1182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1152, 1154, 1182, 1254, 1255 of this title; title 7 section 2015; title 26 section 1153; title 42 section 1382c.

§ 1154. Procedure for granting immigrant status

[*See main edition for text of (a) and (b)*]

(c) Limitation on orphan petitions approved for a single petitioner; prohibition against approval in cases of marriages entered into in order to evade immigration laws

Notwithstanding the provisions of subsection (b) of this section no petition shall be approved if the alien has previously been accorded a nonquota or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws.

[*See main edition for text of (d)*]

(e) Recommendation of valid home-study

Notwithstanding the provisions of subsections (a) and (b) of this section no petition may be approved on behalf of a child defined in section 1101(b)(1)(F) of this title unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.

(f) Subsequent finding of non-entitlement to preference classification

Nothing in this section shall be construed to entitle an immigrant, in behalf of whom a petition under this section is approved, to enter the United States as a preference immigrant under section 1153(a) of this title or as an immediate relative under section 1151(b) of this title if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

(g) Provisions applicable to qualified immigrants specified in section 1152(e)(1) through (6) of this title

The provisions of this section shall be applicable to qualified immigrants specified in paragraphs (1) through (6) of section 1152(e) of this title.

(As amended Oct. 5, 1978, Pub. L. 95–417, §§ 2, 3, 92 Stat. 917.)

CODIFICATION

The designation of subsec. (f), as added by Pub. L. 94–571, was editorially changed to (g) for purposes of codification to reflect the amendment to this section by Pub. L. 95–417.

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–417, § 2, struck out "no more than two petitions may be approved for one petitioner on behalf of a child as defined in section 1101(b)(1)(E) or 1101(b)(1)(F) of this title unless necessary to prevent the separation of brothers and sisters and" following "subsection (b) of this section".

Subsec. (e). Pub. L. 95–417, § 3, added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 95–417, § 3, redesignated former subsec. (e) as (f). See Codification note above for redesignation of subsec. (f), as added by Pub. L. 94–417, as (g).

PART II—ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

§ 1182. Excludable aliens

(a) General classes

Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

[See main edition for text of (1) to (31)]

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States[1] and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 1153(a)(3) and (6) of this title and to nonpreference immigrant aliens described in section 1153(a)(8) of this title;

(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government in Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

[See main edition for text of (b) and (c)]

(d) Nonapplicability of subsections (a)(11), (25), and (28); temporary admission of nonimmigrants; waiver of subsection (a)(26) requirements; parole; bond and conditions for temporary admissions, report to Congress; applicability to aliens leaving territories; reciprocal admission of officials of foreign governments, etc.

[See main edition for text of (1) and (2)]

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27), (29), and (33)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27), (29), and (33)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

[See main edition for text of (4) to (8); (e) to (i)]

(j) Limitation on immigration of foreign medical graduates

(1) The additional requirements referred to in section 1101(a)(15)(J) of this title for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

[See main edition for text of (A)]

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States); or (ii) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that there is a need in that country for persons with the skills the alien will acquire in such education or training; and

(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the written request of the government of his nationality or last residence, if (i) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (ii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) and (B) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirements,

[1] So in original. A closing parenthesis probably should follow "States."

to enter the United States to participate in such program.

[See main edition for text of (B)]

(As amended Aug. 1, 1977, Pub. L. 95-83, title III, § 307(q)(1), (2), 91 Stat. 394; Oct. 30, 1978, Pub. L. 95-549, title I, §§ 101, 102, 92 Stat. 2065.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, as amended, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1978—Subsec. (a)(33). Pub. L. 95-549, § 101, added par. (33).

Subsec. (d)(3). Pub. L. 95-549, § 102, included reference to par. (33) in parenthetical text.

1977—Subsec. (a)(32). Pub. L. 95-83, § 307(q)(1), inserted in first sentence after "graduates of a medical school" text reading "not accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States" and struck out second sentence exclusion of aliens provision with respect to application to special immigrants defined in section 1101(a)(27)(A) of this title (other than the parents, spouses, or children of the United States citizens or of aliens lawfully admitted for permanent residence).

Subsec. (j)(1)(B). Pub. L. 95-83, § 307(q)(2)(A), inserted cl. (i) and designated existing provisions as cl. (ii).

Subsec. (j)(1)(C). Pub. L. 95-83, § 307(q)(2)(B), substituted "that there is a need in that country for persons with the skills the alien will acquire in such education or training" for "that upon such completion and return, he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country".

Subsec. (j)(1)(D). Pub. L. 95-83, § 307(q)(2)(C), substituted "at the written request" for "at the request", struck out cl. "(i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country,", and redesignated as cls. (i) and (ii) former cls. (ii) and (iii).

Subsec. (j)(2)(A). Pub. L. 95-83, § 307(q)(2)(D), substituted "(A) and (B)" for "(A) through (D)".

EFFECTIVE DATE OF 1976 AMENDMENTS

Enactment of subsec. (j) of this section by section 601(d) of Pub. L. 94-484 to be applicable only on and after Jan. 10, 1978, notwithstanding section 601(f) of Pub. L. 94-484, see section 602(d) of Pub. L. 94-484, as added by section 307(q)(3) of Pub. L. 95-83, set out as an Effective Date of 1977 Amendment note under section 1101 of this title.

TRANSFER OF FUNCTIONS

All functions vested in the Secretary of State under subsec. (e) of this section were transferred to the Director of the Agency for International Communication by Reorg. Plan No. 2 of 1977, § 7(a)(8), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

REFUGEES FROM DEMOCRATIC KAMPUCHEA (CAMBODIA); TEMPORARY PAROLE INTO UNITED STATES FOR FISCAL YEARS 1979 AND 1980

Pub. L. 95-431, title VI, § 605, Oct. 10, 1978, 92 Stat. 1045, provided that:

"It is the sense of the Congress that—

"(1) the Government of the United States should give special consideration to the plight of refugees from Democratic Kampuchea (Cambodia) in view of the magnitude and severity of the violations of human rights committed by the Government of Democratic Kampuchea (Cambodia); and

"(2) the Attorney General should exercise his authority under section 212(d)(5) of the Immigration and Nationality Act [subsec. (d)(5) of this section] to parole into the United States—

"(A) for the fiscal year 1979, 7,500 aliens who are nationals or citizens of Democratic Kampuchea (Cambodia) and who are applying for admission to the United States; and

"(B) for the fiscal year 1980, 7,500 such aliens."

RETROACTIVE ADJUSTMENT OF REFUGEE STATUS

Pub. L. 95-412, § 5, Oct. 5, 1978, 92 Stat. 909, provided that: "Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act [subsec. (d)(5) of this section] before September 30, 1980, shall have his status adjusted pursuant to the provisions of section 203(g) and (h) of that Act [section 1153(g) and (h) of this title]."

REPORT BY ATTORNEY GENERAL TO CONGRESSIONAL COMMITTEES ON ADMISSION OF CERTAIN EXCLUDABLE ALIENS

Pub. L. 95-370, title IV, § 401, Sept. 17, 1978, 92 Stat. 627, provided that: "By October 30, 1979, the Attorney General shall report to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate regarding those cases during the period beginning on October 1, 1978, and ending on September 30, 1979, in which (1) the Director of the Federal Bureau of Investigation has notified the Attorney General that the Director knows or has reason to believe that an alien applying for admission into the United States is an excludable alien under the terms of section 212(a) (27), (28), or (29) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) [subsec. (a) (27), (28) or (29) of this section], and (2) such alien is subsequently admitted into the United States."

NATIONAL BOARD OF MEDICAL EXAMINERS EXAMINATION

Section 602(a), (b) of Pub. L. 94-484, as added Pub. L. 95-83, title III, § 307(q)(3), Aug. 1, 1977, 91 Stat. 395, eff. Jan. 10, 1977, provided:

"(a) For purposes of section 212(a)(32) and section 212(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1182) [subsecs. (a)(32) and (j)(1) of this section], an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners Examination if the alien—

"(1) was on January 9, 1977, a doctor of medicine fully and permanently licensed to practice medicine in a State,

"(2) held on that date a valid specialty certificate issued by a constituent board of the American Board of Medical Specialties, and

"(3) was on that date practicing medicine in a State.

"(b) For purposes of this section, the term 'State' means a State as defined in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1102, 1153, 1181, 1183, 1201, 1222, 1223, 1224, 1225, 1226, 1251, 1255, 1259, 1282, 1284, 1322, 1327 of this title; title 7 section 2015; title 26 section 3304; title 28 section 1821; title 42 section 1382c.

§ 1185. Travel control of citizens and aliens

(a) Restrictions and prohibitions

Unless otherwise ordered by the President, it shall be unlawful—

[*See main edition for text of (1) to (7)*]

(b) Citizens

Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

(c) Definitions

The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d) Nonadmission of certain aliens

Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

(e) Revocation of proclamation as affecting penalties

The revocation of any rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such rule, regulation, or order.

(f) Permits to enter

Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section.

(As amended Oct. 7, 1978, Pub. L. 95–426, title VII, § 707(a)–(d), 92 Stat. 992, 993.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–426, § 707(a) substituted provision that the enumerated acts would, unless otherwise ordered by the President, be deemed unlawful for provisions declaring it unlawful when the United States is at war or during a proclaimed national emergency, or, as to aliens, when there exists a state of war between two or more states and the President finds that the interests of the United States require restrictions to be imposed upon departure of persons from and their entry into the United States.

Subsec. (b). Pub. L. 95–426, § 707(b), substituted provisions prohibiting departure or entry except as otherwise provided by the President and subject to such limitations and exceptions as he may authorize or prescribe, for provisions prohibiting such departure or entry after proclamation of a national emergency has been made, published and in force.

Subsec. (c). Pub. L. 95–426, § 707(d), redesignated former subsec. (d) as (c). Former subsec. (c), which provided for penalties for violation of this section, was struck out.

Subsec. (d). Pub. L. 95–426, § 707(d), redesignated former subsec. (e) as (d). Former subsec. (d) redesignated as (c).

Subsec. (e). Pub. L. 95–426, § 707(c), (d), redesignated former subsec. (f) as (e), and as so redesignated, struck out "proclamation," preceding "rule" in two places. Former subsec. (e) redesignated as (d).

Subsec. (f). Pub. L. 95–426, § 707(d), redesignated former subsec. (g) as (f). Former (f) redesignated as (e).

Subsec. (g). Pub. L. 95–426, § 707(d) redesignated subsec. (g) as (f).

PART IV—PROVISIONS RELATING TO ENTRY AND EXCLUSION

§ 1226. Exclusion of aliens

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1153, 1155, 1323 of this title; title 18 section 4113.

PART V—DEPORTATION; ADJUSTMENT OF STATUS

§ 1251. Deportable aliens

(a) General classes

Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

[*See main edition for text of (1) to (16)*]

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, of title 18; an Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes", approved October 6, 1917; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 1185 of this title; an Act entitled "An Act to punish the willful injury of destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918; sections 2151, 2153, 2154, 2155, and 2156 of title 18; an Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States", approved May 18, 1917, or

any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948 [50 App. U.S.C. 451 et seq.]; the Universal Military Training and Service Act [50 App. U.S.C. 451 et seq.]; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917, section 871 of title 18; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment thereof;[1] the Trading With the Enemy Act; section 6 of the Penal Code of the United States; section 2384 of title 18; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of title 18;

(18) has been convicted under section 1328 of this title or under section 4 of the Immigration Act of February 5, 1917; or

(19) during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

[*See main edition for text of* (b) *to* (f)]

(As amended Oct. 30, 1978, Pub. L. 95-549, title I, § 103, 92 Stat. 2065.)

AMENDMENTS

1978—Subsec. (a)(19). Pub. L. 95-549 added par. (19).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1253, 1254 of this title; title 22 sections 618, 2508; title 42 section 402.

§ 1252. Apprehension and deportation of aliens

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1182, 1184, 1282 of this title; title 18 section 4113; title 22 sections 618, 2508; title 28 section 1821; title 40 section 613.

[1] So in original. The semicolon probably should be replaced with "known as".

§ 1253. Countries to which aliens shall be deported

[*See main edition for text of* (a) *to* (g)]

(h) Withholding of deportation

The Attorney General is authorized to withhold deportation of any alien (other than an alien described in section 1251(a)(19) of this title) within the United States to any country in which in his opinion the alien would be subject to persecution on account of race, religion, or political opinion and for such period of time as he deems to be necessary for such reason.

(As amended Oct. 30, 1978, Pub. L. 95-549, title I, § 104, 92 Stat. 2066.)

AMENDMENTS

1978—Subsec. (h). Pub. L. 95-549 inserted parenthetical phrase "(other than an alien described in section 1251(a) of this title)" preceding "within the United States".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1184, 1330 of this title; title 7 section 2015; title 22 sections 618, 2508.

§ 1254. Suspension of deportation

[*See main edition for text of* (a) *to* (d)]

(e) Voluntary departure

The Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 1251(a) of this title (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section), to depart voluntarily from the United States at his own expense in lieu of deportation if such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure under this subsection.

[*See main edition for text of* (f)]

(As amended Oct. 30, 1978, Pub. L. 95-549, title I, § 105, 92 Stat. 2066.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-549 included reference to par. (19) of section 1251(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1256 of this title; title 18 section 4113.

§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence; record; alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa

DEVELOPMENT OF ELIGIBILITY CRITERIA FOR ADMISSION OF REFUGEES FROM CAMBODIA

Pub. L. 95-624, § 16, Nov. 9, 1978, 92 Stat. 3465, provided that: "The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger

number of refugees from Cambodia to qualify for admission to the United States."

INDOCHINA REFUGEES; ADJUSTMENT OF STATUS

Pub. L. 95-145, title I, §§ 101 to 107, Oct. 28, 1977, 91 Stat. 1223, provided:

"Sec. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

"(1) the alien makes an application for such adjustment within six years after the date of enactment of this title [Oct. 28, 1977];

"(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act [section 1182(a)(14), (15), (20), (21), (25), and (32) of this title]; and

"(3) the alien has been physically present in the United States for at least two years.

"(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

"(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act [section 1182(d)(5) of this title] subsequent to March 31, 1975, but prior to January 1, 1979; or

"(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

"Sec. 102. Upon approval of an application for adjustment of status under section 101 of this title [this note], the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

"Sec. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act [this chapter] prior to the date of enactment of this title [Oct. 28, 1977] may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

"Sec. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title [this note], his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

"Sec. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title [this note].

"Sec. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title [this note] the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act [this chapter], and the Attorney General shall not be required to charge the alien any fee.

"Sec. 107. Except as otherwise specifically provided in this title [this note], the definitions contained in the Immigration and Nationality Act [this chapter] shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible."

§ 1259. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to June 30, 1948

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1444 of this title; title 7 section 2015.

PART VIII—GENERAL PENALTY PROVISIONS

§ 1324. Bringing in and harboring certain aliens; persons liable; seizure and forfeiture; exceptions; regulations; warrant; applicability of: other provisions, duties to enforcement personnel, and Supplemental Rules for Certain Admiralty and Maritime Claims; authority to arrest

[*See main edition for text of* (a)]

(b)(1) Any vessel, vehicle, or aircraft which is used in the commission of a violation of subsection (a) of this section shall be subject to seizure and forfeiture, except when—

(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

(2) The Attorney General shall, within one hundred and eighty days from November 2, 1978, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture. In the case of a vehicle seized and forfeited pursuant to paragraph (1) subject to a valid lien or other third-party interest, the regulations shall provide for satisfaction of the third party interest without expense to the interestholder.

(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) of this section and circumstances exist where a warrant is not constitutionally required.

(4) All provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this part: *Provided*, That—

(A) duties imposed on customs officers or other persons regarding the seizure of such conveyances under customs law shall apply to seizures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General; and

(B) proceedings instituted under this subsection respecting vessels shall be subject to the Supplemental Rules of Certain Admiralty and Maritime Claims.

(c) No officer or person shall have authority to make any arrests for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

(As amended Nov. 2, 1978, Pub. L. 95-582, § 2, 92 Stat. 2479.)

REFERENCES IN TEXT

The Supplemental Rules of Certain Admiralty and Maritime Claims, referred to in subsec. (b)(4)(B), are rules A to F of the Supplemental Rules for Certain Admiralty and Maritime Claims set out following the Federal Rules of Civil Procedure in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-582 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-582 redesignated former subsec. (b) as (c).

PART IX—MISCELLANEOUS

§ 1353c. Immigration officials; service in foreign contiguous territory

Nothing in section 209 of title 18, relative to augmenting salaries of Government officials from outside sources shall prevent receiving reimbursements for services of immigration officials incident to the inspection of aliens in foreign contiguous territory and such reimbursement shall be credited to the appropriation, "Immigration and Naturalization Service—Salaries and Expenses."

(Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1424; Sept. 3, 1954, ch. 1263, § 6, 68 Stat. 1227.)

CODIFICATION

"Section 209 of title 18" was substituted for "section 1914 of title 18" on authority of section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1914 of title 18" for reference to the proviso in the Act of March 3, 1917 (5 U.S.C. 66), and substituted "Immigration and Naturalization Service—Salaries and Expenses" for "Expenses of regulating immigration".

SUBCHAPTER III—NATIONALITY AND NATURALIZATION

PART I—NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION

§ 1401. Nationals and citizens of United States at birth

The following shall be nationals and citizens of the United States at birth:

(a) a person born in the United States, and subject to the jurisdiction thereof;

(b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

(g) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 288 of title 22 by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 288 of title 22, may be included in order to satisfy the physical-presence requirement of this

paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date.

(As amended Oct. 10, 1978, Pub. L. 95-432, §§ 1, 3, 92 Stat. 1046.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-432, § 3, struck out "(a)" preceding "The following" and redesignated pars. (1) to (7) as (a) to (g), respectively.

Subsec. (b). Pub. L. 95-432, § 1, struck out subsec. (b) which provided that any person who was a national or citizen of the United States under subsec. (a)(7) lose his nationality or citizenship unless he be continuously physically present in the United States for a period of not less than two years between the ages of 14 and 28 or that the alien parent be naturalized while the child was under 18 years of age and the child began permanent residence in the United States while under 18 years of age and that absence from the United States of less than 60 days not break the continuity of presence.

Subsec. (c). Pub. L. 95-432, § 1, struck out subsec. (c) which provided that former subsec. (b) apply to persons born abroad subsequent to May 24, 1934, except that this not be construed to alter the citizenship of any person born abroad subsequent to May 24, 1934 who, prior to the effective date of this chapter, had taken up residence in the United States before attaining 16 years of age, and thereafter, whether before or after the effective date of this chapter, complied with the residence requirements of section 201(g) and (h) of the Nationality Act of 1940.

Subsec. (d). Pub. L. 95-432, § 1, struck out subsec. (d) which provided that nothing in former subsec. (b) be construed to alter the citizenship of any person who came into the United States prior to Oct. 27, 1972, and who, whether before or after Oct. 27, 1972, immediately following such coming complied with the physical presence requirements for retention of citizenship specified in former subsec. (b), prior to amendment of former subsec. (b) by Pub. L. 92-584.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-432 provided in part that repeal of subsecs. (b) to (d) of this section and of section 1482 of this title is effective Oct. 10, 1978.

PART II—NATIONALITY THROUGH NATURALIZATION

§ 1423. Requirements as to understanding the English language, history, principles and form of government of the United States.

No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own petition who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*, That this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any person who, on the date of the filing of his petition for naturalization as provided in section 1445 of this title, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence: *Provided further*, That the requirements of this section relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

(As amended Nov. 2, 1978, Pub. L. 95-579, § 3, 92 Stat. 2474.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-579 substituted "person who, on the date of the filing of his petition for naturalization as provided in section 1445 of this title, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" for "person who, on the effective date of this chapter, is over fifty years of age and has been living in the United States for periods totaling at least twenty years".

§ 1424. Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1435, 1441, 1451 of this title.

§ 1425. Ineligibility to naturalization of deserters from the armed forces

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433 of this title.

§ 1426. Citizenship denied alien relieved of service in armed forces because of alienage; conclusiveness of records

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1433 of this title.

§ 1427. Requirements of naturalization

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1430, 1438, 1439, 1441, 1446 of this title.

§ 1429. Prerequisite to naturalization; burden of proof

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1439, 1440, 1441 of this title.

§ 1431. Children born outside United States of one alien and one citizen parent; conditions for automatic citizenship

(a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

(1) such naturalization takes place while such child is under the age of eighteen years; and

(2) such child is residing in the United States pursuant to a lawful admission for per-

manent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a)(1) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.

(As amended Oct. 5, 1978, Pub. L. 95-417, § 4, 92 Stat. 917.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-417 substituted in pars. (1) and (2) "eighteen years" for "sixteen years".

Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a)(1) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

§ 1432. Children born outside of United States of alien parents; conditions for automatic citizenship

(a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

[*See main edition for text of (1) to (3)*]

(4) Such naturalization takes place while such child is under the age of eighteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

(As amended Oct. 5, 1978, Pub. L. 95-417, § 5, 92 Stat. 918.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-417 substituted in pars. (4) and (5) "eighteen years" for "sixteen years".

Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

§ 1433. Children born outside United States; naturalization on petition of citizen parent; requirements and exemptions

[*See main edition for text of (a)*]

(b) Subsection (a) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States, in the custody of the adoptive parent or parents, pursuant to a lawful admission for permanent residence.

(As amended Oct. 5, 1978, Pub. L. 95-417, § 6, 92 Stat. 918.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-417 substituted provisions making subsec. (a) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

§ 1434. Repealed. Pub. L. 95-417, § 7, Oct. 5, 1978, 92 Stat. 918

Section, acts June 27, 1952, ch. 477, title III, ch. 2, § 323, 66 Stat. 246; Sept. 11, 1957, Pub. L. 85-316, § 11, 71 Stat. 642; Aug. 20, 1958, Pub. L. 85-697, § 1, 72 Stat. 687, related to citizenship of children adopted by citizens.

§ 1440. Naturalization through active-duty service in the armed forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities

EX. ORD. NO. 12081. TERMINATION OF EXPEDITIOUS NATURALIZATION BASED ON MILITARY SERVICE

Ex. Ord. No. 12081, Sept. 18, 1978, 43 F.R. 42237, provided:

By the authority vested in me as President of the United States of America by Section 329 of the Immigration and Nationality Act, as amended by Sections 1 and 2 of the Act of October 24, 1968 (82 Stat. 1343; 8 U.S.C. 1440), and by the authority of Section 3 of that Act of October 24, 1968 (82 Stat. 1344; 8 U.S.C. 1440e), it is hereby ordered that the statutory period of Vietnam hostilities which began on February 28, 1961, shall be deemed to have terminated on October 15, 1978, for the purpose of ending the period in which active-duty service in the Armed Forces qualifies for certain exemptions from the usual requirements for naturalization, including length of residence and fees.

JIMMY CARTER.

§ 1445. Petition for naturalization

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1423 of this title; title 42 section 1881.

§ 1448. Oath of renunciation and allegiance

REFERENCES IN TEXT

Section 1434 of this title, referred to in subsec. (a), was repealed by Pub. L. 95-417, § 7, Oct. 5, 1978, 92 Stat. 918.

PART III—LOSS OF NATIONALITY

§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions

(a) From and after the effective date of this chapter a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by—

[*See main edition for text of (1) to (4)*]

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(6) making in the United States a formal written renunciation of nationality in such

form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or

(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, or willfully performing any act in violation of section 2385 of title 18, or violating section 2384 of title 18 by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

[*See main edition for text of (b) and (c)*]

(As amended Oct. 10, 1978, Pub. L. 95–432, §§ 2, 4, 92 Stat. 1046.)

AMENDMENTS

1978—Subsec. (a)(5). Pub. L. 95–432, §§ 2, 4, redesignated former subsec. (a)(6) as (a)(5). Former subsec. (a)(5) which dealt with expatriation of persons who voted in a political election in a foreign state or participated in an election or plebiscite to determine sovereignty over foreign territory was struck out.

Subsec. (a)(6). Pub. L. 95–432, § 4, redesignated former subsec. (a)(7) as (a)(6). Former subsec. (a)(6) redesignated (a)(5).

Subsec. (a)(7). Pub. L. 95–432, § 4, redesignated former subsec. (a)(9) as (a)(7). Former subsec. (a)(7) redesignated (a)(6).

Subsec. (a)(8). Pub. L. 95–432, § 2, struck out subsec. (a)(8) which dealt with expatriation of persons who were dismissed or dishonorably discharged as result of deserting the military, air, or naval forces of the United States in time of war.

Subsec. (a)(9). Pub. L. 95–432, § 4, redesignated former subsec. (a)(9) as (a)(7).

§ 1482. Repealed. Pub. L. 95–432, § 1, Oct. 10, 1978, 92 Stat. 1046

Section, act June 27, 1952, ch. 477, title III, ch. 3, § 350, 66 Stat. 269, provided that an individual with dual nationality who voluntarily claims the benefits of the foreign state nationality loses his United States nationality by having continuous residence in the foreign state for 3 years after having attained 22 years of age unless prior to the 3 year period he take an oath of allegiance to the United States or his residence in the foreign state was for a reason specified in section 1485(1), (2), (4), (5), (6), (7), and (8) of this title and section 1486(1) and (2) of this title.

EFFECTIVE DATE OF REPEAL

Section 1 of Pub. L. 95–432 provided in part that repeal of this section is effective Oct. 10, 1978, see Effective Date of 1978 Amendment note set out under section 1401 of this title.

§§ 1484 to 1487. Repealed. Pub. L. 95–432, § 2, Oct. 10, 1978, 92 Stat. 1046

Section 1484, act June 27, 1952, ch. 477, title III, ch. 3, § 352, 66 Stat. 269, related to loss of nationality by naturalized national by continuous residence for 3 years in the territory or foreign state of which the individual was a former national or in which his place of birth was situated or continuous residence for 5 years in any other foreign state or states.

Section 1485, acts June 27, 1952, ch. 477, title III, ch. 3, § 353, 66 Stat. 270; Aug. 4, 1959, Pub. L. 86–129, § 1, 73 Stat. 274, provided exceptions for certain persons from loss of nationality pursuant to section 1484.

Section 1486, acts June 27, 1952, ch. 477, title III, ch. 3, § 354, 66 Stat. 271; Aug. 4, 1959, Pub. L. 86–129, §§ 2, 3, 73 Stat. 274; Sept. 26, 1961, Pub. L. 87–301, § 20, 75 Stat. 656, provided exceptions for certain persons from loss of nationality by continuous residence for five years in any foreign country of which the individual was not a national or in which his place of birth was situated.

Section 1487, act June 27, 1952, ch. 477, title III, ch. 3, § 355, 66 Stat. 272, related to loss of American nationality through expatriation of parents.